

**EXECUTIVE SUMMARY - ENFORCEMENT MATTER**  
**DOCKET NO.:** 2007-0070-MWD-E    **TCEQ ID:** RN101524767    **CASE NO.:** 32248  
**RESPONDENT NAME:** Aqua Utilities, Inc. dba Aqua Texas, Inc.

Page 1 of 2

<b>ORDER TYPE:</b>		
<input checked="" type="checkbox"/> <b>1660 AGREED ORDER</b>	<input type="checkbox"/> <b>FINDINGS AGREED ORDER</b>	<input type="checkbox"/> <b>FINDINGS ORDER FOLLOWING SOAH HEARING</b>
<input type="checkbox"/> <b>FINDINGS DEFAULT ORDER</b>	<input type="checkbox"/> <b>SHUTDOWN ORDER</b>	<input type="checkbox"/> <b>IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER</b>
<input type="checkbox"/> <b>AMENDED ORDER</b>	<input type="checkbox"/> <b>EMERGENCY ORDER</b>	
<b>CASE TYPE:</b>		
<input type="checkbox"/> <b>AIR</b>	<input type="checkbox"/> <b>MULTI-MEDIA (check all that apply)</b>	<input type="checkbox"/> <b>INDUSTRIAL AND HAZARDOUS WASTE</b>
<input type="checkbox"/> <b>PUBLIC WATER SUPPLY</b>	<input type="checkbox"/> <b>PETROLEUM STORAGE TANKS</b>	<input type="checkbox"/> <b>OCCUPATIONAL CERTIFICATION</b>
<input checked="" type="checkbox"/> <b>WATER QUALITY</b>	<input type="checkbox"/> <b>SEWAGE SLUDGE</b>	<input type="checkbox"/> <b>UNDERGROUND INJECTION CONTROL</b>
<input type="checkbox"/> <b>MUNICIPAL SOLID WASTE</b>	<input type="checkbox"/> <b>RADIOACTIVE WASTE</b>	<input type="checkbox"/> <b>DRY CLEANER REGISTRATION</b>
<p><b>SITE WHERE VIOLATION(S) OCCURRED:</b> Little Cypress Bayou Plant, 1,200 feet east and 1,600 feet north of the intersection of State Highway 87 and Farm-to-Market Road 1130, Orange County</p> <p><b>TYPE OF OPERATION:</b> Wastewater treatment</p> <p><b>SMALL BUSINESS:</b>    <input type="checkbox"/> Yes    <input checked="" type="checkbox"/> No</p> <p><b>OTHER SIGNIFICANT MATTERS:</b> There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.</p> <p><b>INTERESTED PARTIES:</b> No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p><b>COMMENTS RECEIVED:</b> The <i>Texas Register</i> comment period expired on May 28, 2007. No comments were received.</p> <p><b>CONTACTS AND MAILING LIST:</b>     <b>TCEQ Attorney/SEP Coordinator:</b> None     <b>TCEQ Enforcement Coordinator:</b> Ms. Heather Brister, Enforcement Division, Enforcement Team I, MC R-09, (254) 761-3048; Mr. David Van Soest, Enforcement Division, MC 219, (512) 239-0468     <b>Respondent:</b> Mr. Robert L. Laughman, President, Aqua Utilities, Inc., 1421 Wells Branch Parkway, Suite 105, Pflugerville, Texas 78660     <b>Respondent's Attorney:</b> Not represented by counsel on this enforcement matter</p>		

**VIOLATION SUMMARY CHART:**

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p><b>Type of Investigation:</b> <input type="checkbox"/> Complaint <input type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input checked="" type="checkbox"/> Records Review</p> <p><b>Date(s) of Complaints Relating to this Case:</b> None</p> <p><b>Date of Investigation Relating to this Case:</b> December 20, 2006</p> <p><b>Date of NOE Relating to this Case:</b> December 29, 2006 (NOE)</p> <p><b>Background Facts:</b> This was a routine record review. One violation was documented.</p> <p><b>WATER</b></p> <p>Failed to comply with permit effluent limits [TEX. WATER CODE § 26.121(a), 30 TEX. ADMIN. CODE § 305.125(1), and Texas Pollutant Discharge Elimination Systems Permit No. WQ0012109001, Effluent Limitations and Monitoring Requirements No. 1].</p>	<p><b>Total Assessed:</b> \$3,300</p> <p><b>Total Deferred:</b> \$660 <input checked="" type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p><b>SEP Conditional Offset:</b> \$0</p> <p><b>Total Paid to General Revenue:</b> \$2,640</p> <p><b>Site Compliance History Classification</b> <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Person Compliance History Classification</b> <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Major Source:</b> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p><b>Applicable Penalty Policy:</b> September 2002</p>	<p><b>Corrective Actions Taken:</b></p> <p>The Executive Director recognizes that Aqua Utilities achieved compliance with the permitted effluent limitations on October 31, 2006, by changing the air filters and increasing the air flow to the aeration basin.</p>



Policy Revision 2 (September 2002)

## Penalty Calculation Worksheet (PCW)

PCW Revision December 8, 2006

TCEQ

DATES	Assigned	4-Jan-2007	PCW	23-Jan-2007	Screening	10-Jan-2007	EPA Due	
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## RESPONDENT/FACILITY INFORMATION

Respondent	Aqua Utilities, Inc. dba Aqua Texas, Inc.						
Reg. Ent. Ref. No.	RN101524767						
Facility/Site Region	10-Beaumont				Major/Minor Source	Minor	

## CASE INFORMATION

Enf./Case ID No.	32248	No. of Violations	1
Docket No.	2007-0070-MWD-E	Order Type	1660
Media Program(s)	Water Quality	Enf. Coordinator	Heather Brister
Multi-Media		EC's Team	EnforcementTeam 1
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$10,000

## Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) Subtotal 1 \$3,000

## ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

Compliance History 35% Enhancement Subtotals 2, 3, &amp; 7 \$1,050

Notes

The Respondent self-reported six months of effluent violations and received one notice of violations (NOVs) for violations that are considered to be same or similar to those cited in this action.

Culpability

No

0% Enhancement

Subtotal 4

\$0

Notes

The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply

25% Reduction

Subtotal 5

\$750

Extraordinary

Before NOV

NOV to EDPRP/Settlement Offer

Ordinary

X

N/A

(mark with x)

Notes

The Respondent became compliant with permitted effluent limitations on October 31, 2006, by changing air filters and increasing the air flow to the aeration basin.

0% Enhancement\*

Subtotal 6

\$0

Total EB Amounts  
Approx. Cost of Compliance\$83  
\$2,000

\*Capped at the Total EB \$ Amount

## SUM OF SUBTOTALS 1-7

Final Subtotal

\$3,300

## OTHER FACTORS AS JUSTICE MAY REQUIRE

Adjustment

\$0

Reduces or enhances the Final Subtotal by the indicated percentage. (Enter number only; e.g. -30 for -30%.)

Notes

Final Penalty Amount

\$3,300

## STATUTORY LIMIT ADJUSTMENT

Final Assessed Penalty

\$3,300

## DEFERRAL

20%

Reduction

Adjustment

-\$660

Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes

Deferral offered for expedited settlement.

## PAYABLE PENALTY

\$2,640

Screening Date 10-Jan-2007

Docket No. 2007-0070-MWD-E

PCW

Respondent Aqua Utilities, Inc. dba Aqua Texas, Inc.

Policy Revision 2 (September 2002)

Case ID No. 32248

PCW Revision December 8, 2006

Reg. Ent. Reference No. RN101524767

Media [Statute] Water Quality

Enf. Coordinator Heather Brister

## Compliance History Worksheet

## &gt;&gt; Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action (number of NOVs meeting criteria)	7	35%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of judgments or consent decrees meeting criteria)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (number of counts)	0	0%
Emissions	Chronic excessive emissions events (number of events)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which notices were submitted)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)	0	0%
Please Enter Yes or No			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 35%

## &gt;&gt; Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

## &gt;&gt; Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

## &gt;&gt; Compliance History Summary

Compliance History Notes

The Respondent self-reported six months of effluent violations and received one notice of violations (NOVs) for violations that are considered to be same or similar to those cited in this action.

Total Adjustment Percentage (Subtotals 2, 3, &amp; 7) 35%

Screening Date 10-Jan-2007

Docket No. 2007-0070-MWD-E

PCW

Respondent Aqua Utilities, Inc. dba Aqua Texas, Inc.

Policy Revision 2 (September 2002)

Case ID No. 32248

PCW Revision December 8, 2006

Reg. Ent. Reference No. RN101524767

Media [Statute] Water Quality

Enf. Coordinator Heather Brister

Violation Number 1

Rule Cite(s) Tex. Water Code § 26.121(a), 30 Tex. Admin. Code § 305.125(1), and TPDES Permit No. WQ0012109001, Effluent Limitations and Monitoring Requirements No. 1

Violation Description Failed to comply with permit effluent limits as documented by a TCEQ record review of self-reported data conducted on December 20, 2006. See attached table.

Base Penalty \$10,000

## &gt;&gt; Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			x
Potential			

Percent 10%

## &gt;&gt; Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes

A simplified model was used to evaluate carbonaceous biochemical oxygen demand (CBOD), ammonia nitrogen (NH<sub>3</sub>-N), and flow to determine whether the discharged amounts of pollutants exceeded levels protective of human health or the environment. As a result of these discharges, human health or the environment have been exposed to insignificant amounts of pollutants which do not exceed levels harmful to human health or environmental receptors.

Adjustment \$9,000

\$1,000

## Violation Events

Number of Violation Events 3

91 Number of violation days

mark only one with an x	daily	
	monthly	
	quarterly	x
	semiannual	
	annual	
	single event	

Violation Base Penalty \$3,000

Three quarterly events recommended.

## Economic Benefit (EB) for this violation

## Statutory Limit Test

Estimated EB Amount \$83

Violation Final Penalty Total \$3,300

This violation Final Assessed Penalty (adjusted for limits) \$3,300

## Economic Benefit Worksheet

**Respondent:** Aqua Utilities, Inc. dba Aqua Texas, Inc.  
**Case ID No.:** 32248  
**Reg. Ent. Reference No.:** RN101524767  
**Media:** Water Quality  
**Violation No.:** 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
<small>No commas or \$</small>							

### Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)	\$2,000	31-Dec-2005	31-Oct-2006	0.8	\$83	n/a	\$83

Notes for DELAYED costs

Estimated cost for changing the air filters and increasing the air flow to the aeration basin. Date Required is the initial month of noncompliance. Final Date is the date of compliance.

### Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$2,000

TOTAL

\$83

Effluent Limit Violation Table			table rev.
Respondent	Aqua Utilities Inc. dba Aqua Texas, Inc.		
ID Number(s)	TPDES Permit No. WQ00121009001		
Docket Number	2007-0070-MWD-E		
Enf. Coordinator	Heather Brister		
Corresponds to Violation Number:		1	

EFFLUENT PARAMETER			
Permit Limit			
	Ammonia Nitrogen Daily Concentration 3 Milligrams per Liter	Ammonia Nitrogen Single Grab 15 Milligrams per Liter	Carbonaceous Biochemical Oxygen Demand Daily Concentration 10 Milligrams per Liter
Month/Year			
Dec-05	9.6	20.4	10.6
Apr-06	5.17	30.8	c
Sep-06	4.95	27.6	c





# Compliance History

Customer/Respondent/Owner-Operator:	CN602787509	Aqua Utilities, Inc. dba Aqua Texas, Inc.	Classification: Average	Rating: 0.96
Regulated Entity:	RN101524767	LITTLE CYPRESS BAYOU EST PLA	Classification: Average	Site Rating: 0.48
ID Number(s):	WASTEWATER	PERMIT	WQ0012109001	
	WASTEWATER	PERMIT	TPDES0079251	
	WASTEWATER	PERMIT	TX0079251	
	WASTEWATER LICENSING	LICENSE	WQ0012109001	
Location:	1200 feet east and 1600 feet north of the intersection of State Highway 87 and Farm-to-Market Road 1130 in Orange County, Texas			
TCEQ Region:	REGION 10 - BEAUMONT			
Date Compliance History Prepared:	January 19, 2007			
Agency Decision Requiring Compliance History:	Enforcement			
Compliance Period:	January 19, 2002 to January 19, 2007			

TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History

Name: Heather Brister Phone: 512-239-1203

## Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? No
2. Has there been a (known) change in ownership of the site during the compliance period? Yes
3. If Yes, who is the current owner? Aqua Utilities, Inc.
4. If Yes, who was/were the prior owner(s)? AquaSource Utilites Inc
5. When did the change(s) in ownership occur? 10/13/2005

### Components (Multimedia) for the Site :

- |    |   |     |
|----|---|-----|
| A. | Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government. | N/A |
| B. | Any criminal convictions of the state of Texas and the federal government.  | N/A |
| C. | Chronic excessive emissions events.   | N/A |
| D. | The approval dates of investigations. (CCEDS Inv. Track. No.)   |     |
- 1 10/24/2005 (476203)
  - 2 12/29/2006 (534830)
  - 3 11/29/2005 (476204)
  - 4 12/20/2005 (476205)
  - 5 01/23/2006 (476206)
  - 6 04/24/2006 (503331)
  - 7 12/03/2003 (251733)
  - 8 05/23/2006 (503332)
  - 9 06/16/2006 (503333)
  - 10 07/12/2006 (503334)
  - 11 02/14/2005 (386486)
  - 12 03/22/2005 (386487)
  - 13 12/16/2004 (386488)
  - 14 01/18/2005 (386489)
  - 15 08/23/2006 (525708)
  - 16 09/20/2006 (525709)
  - 17 10/19/2006 (525710)
  - 18 04/30/2004 (360283)

19	02/24/2003	(204943)
20	05/27/2004	(360284)
21	04/24/2003	(204944)
22	09/07/2004	(360285)
23	10/20/2004	(360286)
24	09/25/2002	(204945)
25	10/21/2002	(204946)
26	11/22/2004	(360287)
27	11/21/2002	(204947)
28	12/30/2002	(204948)
29	01/21/2003	(204949)
30	04/19/2005	(424344)
31	06/23/2005	(424345)
32	05/23/2005	(424346)
33	03/18/2004	(315149)
34	07/22/2005	(445120)
35	03/25/2003	(315150)
36	09/02/2005	(445121)
37	04/13/2004	(315151)
38	09/23/2005	(445122)
39	05/23/2003	(315152)
40	06/23/2003	(315153)
41	07/23/2003	(315154)
42	09/05/2003	(315155)
43	10/03/2003	(315156)
44	10/20/2003	(315157)
45	01/20/2004	(315158)
46	01/20/2004	(315159)
47	02/22/2006	(476201)
48	02/20/2004	(315160)
49	03/20/2006	(476202)

E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)

Date: **12/31/2005** (476206)

Self Report? YES

Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
TWC Chapter 26 26.121(a)[G]

Description: Failure to meet the limit for one or more permit parameter

Date: **04/30/2006** (503332)

Self Report? YES

Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
TWC Chapter 26 26.121(a)[G]

Description: Failure to meet the limit for one or more permit parameter

Date: **09/30/2006** (525710)

Self Report? YES

Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
TWC Chapter 26 26.121(a)[G]

Description: Failure to meet the limit for one or more permit parameter

Date: **12/05/2003** (251733)

Self Report? NO

Classification: Moderate

Rqmt Prov: PERMIT IA

Description: Failure to employ a licensed operator. On 10/08/03, Mr. Frank Gennusa was introduced as the WWTP operator for the Cypress Bayou WWTP and the Countryside Estates WWTP (WQ11249-001), also owned by AquaSource. Mr. Gennusa does not possess a valid wastewater operator's license.

Self Report? NO

Classification: Minor

Rqmt Prov: PERMIT IA  
Description: Failure by AquaSource Utility to discharge a compliant effluent. The chlorine residual concentration was measured to be 0.75 mg/l during the investigation.

Self Report? NO Classification: Minor

Rqmt Prov: PERMIT IA  
Description: Failure by AquaSource Utility to accurately complete the July 2003 Discharge Monitoring Report (DMR).

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 312, SubChapter G 312.145(b)(1)(E)  
Rqmt Prov: PERMIT IA  
Description: Failure by AquaSource Utility to maintain completed sludge disposal records at the wastewater treatment plant. Sludge disposal records reviewed on 10/8/03 revealed that the WWTP did not have properly completed disposal manifests on file. The permittee uses Enviroganics (TCEQ Sludge Transporter Registration No. 21466)

Date: 03/31/2003 (204944)

Self Report? YES Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
TWC Chapter 26 26.121(a)[G]  
Description: Failure to meet the limit for one or more permit parameter.

Date: 09/30/2004 (360286)

Self Report? YES Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
TWC Chapter 26 26.121(a)[G]  
Description: Failure to meet the limit for one or more permit parameter

Date: 10/31/2003 (315158)

Self Report? YES Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
TWC Chapter 26 26.121(a)[G]  
Description: Failure to meet the limit for one or more permit parameter

- |    |   |     |
|----|---|-----|
| F. | Environmental audits.                                     | N/A |
| G. | Type of environmental management systems (EMSs).          | N/A |
| H. | Voluntary on-site compliance assessment dates.            | N/A |
| I. | Participation in a voluntary pollution reduction program. | N/A |
| J. | Early compliance.   | N/A |

Sites Outside of Texas  
N/A



# TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN  
ENFORCEMENT ACTION  
CONCERNING  
AQUA UTILITIES, INC. DBA AQUA  
TEXAS, INC.  
RN101524767**

**§ BEFORE THE  
§  
§ TEXAS COMMISSION ON  
§  
§ ENVIRONMENTAL QUALITY  
§**

## **AGREED ORDER DOCKET NO. 2007-0070-MWD-E**

### **I. JURISDICTION AND STIPULATIONS**

At its \_\_\_\_\_ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Aqua Utilities, Inc. dba Aqua Texas, Inc. ("Aqua Utilities") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and Aqua Utilities appear before the Commission and together stipulate that:

1. Aqua Utilities owns and operates a wastewater treatment facility located 1,200 feet east and 1,600 feet north of the intersection of State Highway 87 and Farm-to-Market Road 1130 in Orange County, Texas (the "Facility").
2. Aqua Utilities has discharged municipal waste into or adjacent to any water in the state under TEX. WATER CODE ch. 26.
3. The Commission and Aqua Utilities agree that the Commission has jurisdiction to enter this Agreed Order, and that Aqua Utilities is subject to the Commission's jurisdiction.
4. Aqua Utilities received notice of the violations alleged in Section II ("Allegations") on or about January 3, 2007.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by Aqua Utilities of any violation alleged in Section II ("Allegations"), nor of any statute or rule.



6. An administrative penalty in the amount of Three Thousand Three Hundred Dollars (\$3,300) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). Aqua Utilities has paid Two Thousand Six Hundred Forty Dollars (\$2,640) of the administrative penalty and Six Hundred Sixty Dollars (\$660) is deferred contingent upon Aqua Utilities' timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If Aqua Utilities fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require Aqua Utilities to pay all or part of the deferred penalty.
7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
8. The Executive Director of the TCEQ and Aqua Utilities have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. The Executive Director recognizes that Aqua Utilities achieved compliance with the permitted effluent limitations on October 31, 2006 by changing the air filters and increasing the air flow to the aeration basin.
10. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that Aqua Utilities has not complied with one or more of the terms or conditions in this Agreed Order.
11. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
12. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

## **II. ALLEGATIONS**

As owner and operator of the Facility, Aqua Utilities is alleged to have failed to comply with permit effluent limits, in violation of TEX. WATER CODE § 26.121(a), 30 TEX. ADMIN. CODE § 305.125(1), and Texas Pollutant Discharge Elimination Systems Permit No. WQ0012109001, Effluent Limitations and Monitoring Requirements No. 1 as documented during a record review conducted on December 20, 2006, and as shown in the following table.





<b>EFFLUENT PARAMETER</b>			
<b>Permit Limit</b>			
	Ammonia Nitrogen Daily Concentration 3 Milligrams per Liter	Ammonia Nitrogen Single Grab 15 Milligrams per Liter	Carbonaceous Biochemical Oxygen Demand Daily Concentration 10 Milligrams per Liter
<b>Month/Year</b>			
Dec-05	9.6	20.4	10.6
Apr-06	5.17	30.8	c
Sep-06	4.95	27.6	c

### III. DENIALS

Aqua Utilities generally denies each allegation in Section II ("Allegations").

### IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that Aqua Utilities pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and Aqua Utilities' compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations, which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Aqua Utilities, Inc. dba Aqua Texas, Inc., Docket No. 2007-0070-MWD-E" to:  
  
Financial Administration Division, Revenues Section  
Attention: Cashier's Office, MC 214  
Texas Commission on Environmental Quality  
P.O. Box 13088  
Austin, Texas 78711-3088
2. The provisions of this Agreed Order shall apply to and be binding upon Aqua Utilities. Aqua Utilities is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
3. This Agreed Order, issued by the Commission, shall not be admissible against Aqua Utilities in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
4. This agreement may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreement may be transmitted by



facsimile transmission to the other parties, which shall constitute an original signature for all purposes.

5. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to Aqua Utilities, or three days after the date on which the Commission mails notice of the Order to Aqua Utilities, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.



## SIGNATURE PAGE

### TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

\_\_\_\_\_  
For the Commission

  
\_\_\_\_\_  
For the Executive Director

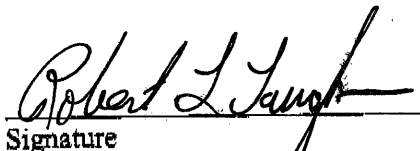
10/18/07  
Date

I, the undersigned, have read and understand the attached Agreed Order. I am authorized to agree to the attached Agreed Order on behalf of the entity, if any, indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that my failure to comply with the Ordering Provisions, if any, in this order and/or my failure to timely pay the penalty amount, may result in:

- A negative impact on my compliance history;
- Greater scrutiny of any permit applications submitted by me;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions against me;
- Automatic referral to the Attorney General's Office of any future enforcement actions against me; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.

  
\_\_\_\_\_  
Signature

July 19, 2007  
Date

Robert L. Laughman  
\_\_\_\_\_  
Name (Printed or typed)  
Authorized Representative of  
Aqua Utilities, Inc. dba Aqua Texas, Inc.

President  
\_\_\_\_\_  
Title

Instructions: Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenues Section at the address in Section IV, Paragraph 1 of this Agreed Order.

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